

## **REMARKS/ARGUMENTS**

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance. The present amendment is being made to facilitate prosecution of the application.

### **I. STATUS OF THE CLAIMS AND FORMAL MATTERS**

Claims 67-76, 81-95, 108-110, 122, 123 and 133-134 are in this application. Claims 1-67, 77-80, 96-107, 111- 121, 135 and 136 are hereby canceled without prejudice or disclaimer of subject matter. Claims 67, 93, 108, 122 and 133 are independent and are hereby amended. Claim 83 is amended to clarify the units of measurement. No new matter has been introduced. Support for this amendment is provided throughout the Specification as originally filed.

Applicants specifically reserve the right to re-present the canceled and/or withdrawn claims in a continuation application.

Changes to the claims are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

### **II. REJECTIONS UNDER 35 U.S.C. §112**

Claims 1-10, 15-29, 67-76, 81-95, 108-110, 122, 123 and 133-136 have been amended to overcome the §112 rejection of these claims.

The amendment to the claims merely returns the claim language to allowable language used in a prior amendment and should not require additional search.

Applicants respectfully request withdrawal of the 35 U.S.C. §112 rejection.

- Applicants note that method claims 67-76, 81-95, 108-110, 122, 123 and 133-134 were only rejected under §112 and, therefore, should now be in condition for allowance.

### III. REJECTIONS UNDER 35 U.S.C. §103(a)

Claims 1-10, 15-24, 42-44, 56, 57 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over WO 0041764 (U.S. Patent No. 6,885,896) to Minogue et al. (hereinafter, merely "Minogue") in view of Official Notice.

The rejection of claims 1-10, 15-24, 42-44, 56, 57 is moot because these claims have been canceled.

#### A. NON-REJECTED METHOD CLAIMS

Applicants note that method claims 67-76, 81-95, 108-110, 122, 123 and 133-134 were not rejected under §103. The only rejection of these claims was under §112. As discussed above, claims 67-76, 81-95, 108-110, 122, 123 and 133-134 have been amended herein to overcome the §112 rejection and should, therefore, now be in condition for allowance.

The method claims are not obvious in view of Minogue. Applicants contend that the methods of the present invention are patentable over Minogue for at least the reason that those claims do not specify the apparatus that is used to perform the present method and the apparatus of Minogue does not disclose the claimed method.

Thus, claim 67 is patentable over Minogue.

For reasons similar or somewhat similar to those described above with regard to independent claim 67, independent claims 93, 108, 122 and 133 are also believed to be patentable

#### **IV. DEPENDENT CLAIMS**

The other claims are dependent from one of the claims discussed above and are therefore believed patentable for at least the same reasons. Because each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

#### **CONCLUSION**

Claims 67-76, 81-95, 108-110, 122, 123 and 133-134 are in condition for allowance. In the event the Examiner disagrees with any of statements appearing above with respect to the disclosure in the cited reference, or references, it is respectfully requested that the Examiner specifically indicate those portions of the reference, or references, providing the basis for a contrary view.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable and Applicants respectfully request early passage to issue of the present application.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP  
Attorneys for Applicants

By: 

Paul A. Levy  
Reg. No. 45,748  
(212) 588-0800